IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION.

FIRST APPEAL NO.1653 OF 1996.

Smt.Aruna Dnyaneshwar Kotwal
& ors. : Appellants.

versus

The Spl.Land Acquisition Officer,
Metro Centre No.5 : Respondent.

WITH

FIRST APPEAL NO.399 OF 2001

The State of Maharashtra : Appellant.

v/s.

Smt.Aruna Dnyaneshwar Kotwal
& ors. : Respondents.

Mr.Sachin Punde for the claimants in both the appeals.
Mr.B.R.Patil, Acting Government Pleader, for the State in both the appeals.

CORAM : D.G.DESHPANDE,J.

DATED : 3rd May 2005.

ORAL ORDER

1. Both the appeals are on board for orders. By consent print is dispensed with and by consent both the appeals are taken up for final hearing.

2. Heard the advocate for the claimants and learned AGP for the State. Appeal No.399 of 2001 is filed by the State challenging the enhancement of compensation, while Appeal No.1653 of 1996 is filed by the claimants for further enhancement. The area of the acquired land is about 24740 sq.mtrs. It is situated at village Taloja and, as per the report of valuer Jeevan Kulkarni it is abutting to National Highway. That was the criteria fixed by the Division Bench while deciding the compensation. I am following the judgment of the Division Bench in many of other cases and, so far as village Taloja is concerned, in First Appeal No.252 of 1994 decided by me on 10th March 2005 where the acquired land from village Taloja was at a distance of 500 mtrs. from Bombay Pune National Highway, the compensation was fixed at Rs.25/- per sq.mtr.

3. Counsel for the claimants contended that in this case the land is abutting the Bombay Pune National Highway. He has produced copy of the report of valuer Jeevan Kulkarni which is a part of record and as per that report the land is partly abutting the Bombay Pune National Highway. Counsel for the claimants, therefore, contended that the claimants are entitled to Rs.30/- per sq.mtr.

4. The learned AGP however contended that as per the report of Jeevan Kulkarni the acquired land is partly abutting the Bombay Pune National Highway and different areas from six Survey Nos. has been acquired. It is not clear whether all these Survey Nos.134, 137, 136, 133, 130 and 127 are abutting the National Highway or, whether they are scattered at different places. Therefore, according to him, Rs.25/- per sq.mtr. would be proper compensation.

5. It is true that if the entire acquired land is abutting to Bombay Pune National Highway, the claimants would have been entitled to Rs.30/-

per sq.mtr. But when the different survey numbers have been acquired and the evidence is not clear as to which of the survey number is abutting the National Highway, then Rs.25/- per sq.mtr. is proper compensation. Hence the order:-

:ORDER:

Appeal No.399 of 2001 filed by the State is dismissed.

Appeal No.1653 of 1996 filed by the claimants is partly allowed.

The claimants will be entitled to compensation at the rate of Rs.25/- per sq.mtr. for the acquired land with proportionate increase in the statutory benefits.

No order as to costs of both these appeals.

[D.G.DESHPANDE]

03/05/2005 JUDGE.